



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

March 3, 1998

Mr. Dan T. Saluri
Assistant City Attorney
Office of the Police Advisor
City of Lubbock
P.O. Box 2000
Lubbock, Texas 79457

OR98-0575

Dear Mr. Saluri:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 112947.

The City of Lubbock (the "city") received a request for "an explanation for the loss of the records between May through December, 1996," concerning certain information sought by the requestor.¹ In response to the request, you submitted to this office for review a representative sample of the information which you assert is responsive.² You explain that you have released certain records responsive to previous related open records requests. However, the records responsive to the pending request, specifically those between May and December 1996, "were removed without notice to the Records Division." You further claim that the requested information is excepted from disclosure under sections 552.103 and 552.108 of the Government Code. We have considered the exceptions and arguments you raise and have reviewed the sample documents you have submitted.

¹We note that to the extent that the pending request for information raises questions of fact, this office is unable to resolve such questions of fact through the opinion process. Open Records Decision Nos. 554 (1990), 552 (1990).

²We note that the city submitted to this office for review only a blank "Request for copy of Peace Officer's Accident Report" form. We assume that this blank form is truly representative of the requested records as a whole. See Open Records Decision Nos. 499 (1988), 497 (1988) (where requested documents are numerous and repetitive, governmental body should submit representative sample; but if each record contains substantially different information, all must be submitted). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

Section 552.108(a)(1) excepts from disclosure "[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if . . . release of the information would interfere with the detection, investigation, or prosecution of crime." You indicate that the requested information relates to pending criminal investigation and prosecution. Based upon this representation, we conclude that the release of the requested records would interfere with the detection, investigation, or prosecution of crime. *See Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976) (court delineates law enforcement interests that are present in active cases). Accordingly, the city may withhold the requested information from disclosure under section 552.108(a)(1). Although section 552.108(a)(1) authorizes you to withhold this information from disclosure, you may choose to release all or part of the information at issue that is not otherwise confidential by law. *See Gov't Code* § 552.007.

As we resolve your request under section 552.108, we need not specifically address your claimed exception under section 552.103 at this time. We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied on as a previous determination regarding any other records. If you have any questions regarding this ruling, please contact our office.

Yours very truly,

A handwritten signature in black ink, appearing to read "Sam Haddad". The signature is fluid and cursive, with a large loop at the beginning.

Sam Haddad
Assistant Attorney General
Open Records Division

SH/rho

Ref.: ID# 112974

Enclosures: Submitted documents

cc: Mr. Donald J. Daniels
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(w/o enclosures)